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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,146	02/11/2004	Peter Arthur Tobler	718026.64	2145

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EXAMINER	
WEST, JEFFREY R	

ART UNIT	PAPER NUMBER
2857	

NOTIFICATION DATE	DELIVERY MODE
01/15/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pto-sl@huschblackwell.com

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/708,146	**Applicant(s)** TOBLER ET AL.	
	Examiner Jeffrey R. West	**Art Unit** 2857	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Jeffrey R. West/
Primary Examiner, Art Unit 2857

In response to Applicant's argument that "Tanaka teaches only the use of statistical analysis techniques to assess a collection of machine part data to determine the optimal machine parameters for producing high quality end products" and that "Tanaka does not teach or suggest 'at least partially correlating the inputted product quality control measurement data regarding a possible product defect to the information relating to the at least one part ... where said at least partially correlating assists in locating a possible part defect'", the Examiner asserts that Tanaka does more than only use statistical analysis techniques to determine optimal machine parameters for producing high quality end products. Instead the Examiner maintains that Tanaka teaches at least partially correlating inputted product quality control measurement data regarding a possible product defect with information relating to the at least one part in order to determine the part causing the possible product defect by determining the causal relationship between possible product defect quality results and part history information (e.g., which apparatus has manufactured the product, producing conditions in the operation, and/or in-line measurement values as the results of each operation are accumulated as the information on factors which may affect the quality of products) and explicitly states that "[w]hen it is detected that an average yield of one kind of products is dropping as shown in FIG. 3, the causal relation between the yield data and the apparatus history data is analyzed and a producing apparatus which is the cause of decline in the yield is spotted", specifically:

In view of the foregoing, it is a primary object of the present invention to provide a method and apparatus for extracting abnormal factors in a processing operation, which is capable of detecting a factor which is adversely affecting a specific quality of products by deducing from the causal relation between the product quality results information and the quality affecting information. (column 1, lines 46-52)

Referring to FIG. 1, reference numerals 1 and 2 respectively denote an inputting unit for inputting parameters required for extracting abnormal factors, and a memory unit for storing data on quality results, quality affecting factors, and analysis results. A central processing unit 3 includes a means 4 for conducting multistage multivariate analysis. There is further provided a displaying and printing device 5 for showing and printing out extraction results. (column 2, line 65 to column 3, line 5)

FIGS. 2, 2A, 2B, 2C, and 2D collectively provide a conceptional diagram of processing operation for which the method and apparatus of the present invention is intended. A product is manufactured through each producing apparatus in each operation in the diffusion process. During this process, the apparatus histories, e.g. as regards which apparatus has manufactured the product, the producing conditions in the operation, and in-line measurement values as the results of each operation are accumulated as the information on factors which may affect the quality of products. The yield of products and electric characteristics are measured as the product quality information in an intermediate inspection step. Lot 1 has only a single producing system while the producing system in lot 2 is divided into different procedures in the diffusion process.
When it is detected that an average yield of one kind of products is dropping as shown in FIG. 3, the causal relation between the yield data and the apparatus history data is analyzed and a producing apparatus which is the cause of decline in the yield is spotted in a manner hereinafter described referring to FIGS. 4 to 6. (column 3, lines 15-35)

In response to Applicant's argument that "Tanaka states that when 'the product is manufactured in small amount, e.g., statistically insufficient, the data on different data types of products manufactured with the same conditions is collected to cover the shortage of information'" and that "[s]ubstituting data from different products is something that could only be done during a statistical analysis to determine optimal machine parameters, and would completely circumvent the purpose of Applicant's system - a user of Applicant's system would not be able to correlate or locate part defects if substitute data were used", the Examiner asserts that even if such substitution is non-preferred in Applicant's system, such disclosure does not eliminate the fact that Tanaka teaches at least partially correlating inputted product quality control measurement data regarding a possible product defect with information relating to the at least one part in order to determine the part causing the possible product defect by determining the causal relationship between possible product defect quality results and part history information, as discussed above. Furthermore, the Examiner asserts that it has been held that patents are relevant as prior art for all that they contain including preferred and non-preferred embodiments (see MPEP 2123).

/JRW/